
STATUTORY INSTRUMENTS

2003 No. 403

The Nuclear Industries Security Regulations 2003

PART 1

INTRODUCTORY

Citation, commencement, revocation and extent

1.—(1) These Regulations may be cited as the Nuclear Industries Security Regulations 2003.

(2) These Regulations come into force on 22nd March 2003, except that Part 3 and the provisions of Parts 1 and 5 so far as they apply for the purposes of Part 3 come into force on 22nd September 2003.

(3) The Nuclear Generating Stations (Security) Regulations 1996⁽¹⁾ are hereby revoked.

(4) Subject to paragraph (5), these Regulations extend to Northern Ireland.

(5) Paragraph (3) of this regulation and regulations 3(1) and (2) and 23 do not extend to Northern Ireland (but nothing in this paragraph prevents “nuclear material” in these Regulations from having the same meaning in all parts of the United Kingdom (see regulation 2(1)).

(6) Regulation 24 extends only to Northern Ireland.

Interpretation: general

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the 2001 Act” means the Anti-terrorism, Crime and Security Act 2001;

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978⁽²⁾;

“approved carrier” means a Class A carrier or a Class B carrier;

“approved security plan” means a security plan which has been approved by the Secretary of State under regulation 5 or 6, as amended by any amendments approved under regulation 6, and which has not been revoked (but see regulation 8 (temporary security plans));

“approved transport plan” means a transport plan which has been approved by the Secretary of State under regulation 19;

“approved transport security statement” means a transport security statement which has been approved by the Secretary of State under regulation 16, as amended by any amendments approved under that regulation, and which has not been revoked;

“carrier” means a person undertaking the transport of Category I/II nuclear material or Category III nuclear material, and includes both a carrier for hire or reward and a carrier on his own account;

(1) S.I. 1996/665.

(2) S.I. 1978/1039 (N.I. 9).

- “Category I/II nuclear material” has the meaning given in regulation 3(3);
- “Category III nuclear material” has the meaning given in regulation 3(4);
- “Class A carrier” means a carrier approved by the Secretary of State under Part 3 of these Regulations to transport Category I/II nuclear material and Category III nuclear material;
- “Class B carrier” means a carrier approved by the Secretary of State under Part 3 of these Regulations to transport Category III nuclear material;
- “commencement date” means 22nd March 2003;
- “enriched”, in relation to uranium, means enriched so as to contain more than 0.711% of uranium-235;
- “nuclear material” has the meaning given in section 76(7) of the 2001 Act (as extended under regulation 3);
- “nuclear premises” means—
- (a) a nuclear site on which nuclear material or other radioactive material is used or stored;
 - (b) premises that form part of a nuclear site and are premises on which a person, who is not the holder of the nuclear site licence and is not acting as an officer, employee or contractor of that holder, uses or stores nuclear material or other radioactive material; or
 - (c) other nuclear premises on which Category I/II nuclear material or Category III nuclear material is used or stored, but excluding premises that are used solely for the purpose of the temporary storage of such material during the course of or incidental to its transport in any case where the standards, procedures and arrangements in respect of the security of the transport are contained in an approved transport security statement;
- “nuclear site” has the meaning given in section 76(7) of the 2001 Act;
- “nuclear site licence” has the same meaning as in section 1 of the Nuclear Installations Act 1965(3);
- “other nuclear premises” has the meaning given in section 77(7) of the 2001 Act;
- “relevant personnel”, in relation to a person (“the principal”) who is the responsible person in relation to any nuclear premises, a carrier or a person to whom regulation 22 applies, means—
- (a) each of the principal’s officers, employees, contractors and consultants, and
 - (b) each officer, employee, contractor or consultant of the principal’s contractors and consultants;
- “responsible person” has the meaning given in paragraph (2);
- “security plan” must be construed in accordance with regulation 4(2) and (3);
- “sensitive nuclear information” has the meaning given in section 77(7) of the 2001 Act;
- “transport” means transport by any means, but excluding—
- (i) transport by air, and
 - (ii) transport within nuclear premises or between adjacent nuclear premises;
- “transport plan” must be construed in accordance with regulation 19(3);
- “transport security statement” must be construed in accordance with regulation 16(2) and (3);
- “United Kingdom person” has the meaning given in section 81(2) of the 2001 Act; and
- “United Kingdom ship” has the meaning given in section 77(7) of the 2001 Act.
- (2) “Responsible person”, in relation to any nuclear premises, means—

(3) 1965 c. 57; section 1(1) is amended by S.I. 1974/2056, regulation 2 and Schedule 2, and by S.I. 1990/1918, regulation 2 and the Schedule.

- (a) in the case of a nuclear site falling within paragraph (a) of the definition of “nuclear premises”, the holder of the nuclear site licence;
- (b) in the case of premises falling within paragraph (b) of that definition, the person mentioned in that paragraph; and
- (c) in the case of premises falling within paragraph (c) of that definition, the person who uses or stores the Category I/II nuclear material or Category III nuclear material on those premises,

but this is subject to paragraph (3).

(3) No person is the responsible person in relation to any nuclear premises falling within paragraph (b) or (c) of the definition of “nuclear premises” by virtue of using or storing nuclear material or other radioactive material on behalf of another person if he is that other person’s officer, employee or contractor.

Meaning of “nuclear material”, “Category I/II nuclear material” and “Category III nuclear material”

3.—(1) For the purposes of paragraph (b) of the definition of “nuclear material” in section 76(7) of the 2001 Act (meaning of “nuclear material” in section 76) material of the following kinds is prescribed—

- (a) previously separated americium-241 which is not irradiated,
- (b) previously separated americium-242m which is not irradiated,
- (c) previously separated americium-243 which is not irradiated, and
- (d) previously separated neptunium-237 which is not irradiated.

(2) In paragraph (1)—

“irradiated”, in relation to any kind of material, means that the material has a total radiation output giving a dose rate exceeding 1 Gray per hour at one metre from the unshielded surface of the material; and

“previously separated”, in relation to any kind of material, means that the material has been subject to treatment that increases the concentration of the material.

(3) For the purposes of these Regulations, nuclear material is “Category I/II nuclear material” if and only if it is—

- (a) a kind of nuclear material specified in column 1 of the Table in the Schedule to these Regulations in relation to which there is an entry in column 2 of that Table specifying a quantity (including “any quantity”) for material of that kind, and
- (b) of such a quantity as is specified in column 2 of that Table for material of that kind.

(4) For the purposes of these Regulations, nuclear material is “Category III nuclear material” if and only if it is—

- (a) a kind of nuclear material specified in column 1 of the Table in the Schedule to these Regulations in relation to which there is an entry in column 3 of that Table specifying a quantity (including “any quantity”) for material of that kind, and
- (b) of such a quantity as is specified in column 3 of that Table for material of that kind.

(5) In determining the quantity of material of any kind for the purposes of paragraphs (3)(b) and (4)(b)—

- (a) in the case of material used or stored on nuclear premises, the quantities of all material of the kind in question that is being used or stored on the nuclear premises in question are to be aggregated, and

- (b) in the case of material being transported by road, train or ship, the quantities of all material of the kind in question that is being transported in the road convoy, on the train or on the ship, as the case may be, are to be aggregated.

PART 2

SECURITY OF NUCLEAR PREMISES

Requirement for approved security plan for nuclear premises

4.—(1) There must be an approved security plan for each nuclear premises (whether or not the premises form part of other premises to which this paragraph applies).

(2) A security plan must describe in writing the standards, procedures and arrangements adopted or to be adopted by the responsible person to ensure the security of—

- (a) the nuclear premises in relation to which he is the responsible person,
- (b) any Category I/II nuclear material and Category III nuclear material used or stored on the premises,
- (c) any equipment used or stored on the premises in connection with activities involving nuclear material,
- (d) any sensitive nuclear information kept on the premises, and
- (e) in the case of nuclear premises which are or form part of a nuclear site—
 - (i) any nuclear material (so far as not already mentioned in sub-paragraph (b)) and other radioactive material used or stored on the premises, and
 - (ii) any equipment used or stored on the premises in connection with activities involving other radioactive material.

(3) In particular, but without prejudice to the generality of paragraph (2), the plan must describe the standards, procedures and arrangements relating to—

- (a) the investigation and assessment by the Secretary of State of the suitability of relevant personnel of the responsible person with a view to ensuring the security of the premises and the material, equipment and information mentioned in paragraph (2);
- (b) the receipt and despatch of any Category I/II nuclear material and Category III nuclear material to be transported to or from the nuclear premises;
- (c) the manner in which the nuclear premises are to be policed and guarded, including the identity of the person providing any constables or persons acting as guards, the total number of constables and such persons attached to the premises and the number of such constables or other persons who will normally be present there; and
- (d) the steps to be taken by the responsible person or any person acting on his behalf if any event of a kind specified in regulation 10(5)(a), (b), (e) or (h) that requires immediate action occurs, and the regular practice of the activities required in connection with those steps.

(4) In the case of premises which are nuclear premises on the commencement date, paragraph (1) does not apply until—

- (a) if a security plan has been submitted by 22nd June 2003 to the Secretary of State for approval under regulation 5, the date on which the Secretary of State approves a security plan for the premises, or
- (b) if it has not, 22nd June 2003.

Submission and approval of first security plans

5.—(1) The responsible person in relation to each nuclear premises must submit a security plan for the premises to the Secretary of State for approval.

(2) The Secretary of State may approve the plan as submitted or with such amendments as she may require.

(3) In the case of premises which are nuclear premises on the commencement date, the security plan must be submitted by 22nd June 2003.

Replacement, amendment and revocation of approved security plans

6.—(1) The responsible person in relation to each nuclear premises may at any time submit to the Secretary of State for approval—

(a) a fresh security plan for the premises, or

(b) proposals for amending the approved security plan for the premises.

(2) The Secretary of State may approve the plan or proposals as submitted or with such amendments as she may require.

(3) On approving a fresh security plan for the premises, the Secretary of State may revoke the approval of the former plan for the premises.

Maintenance of security

7.—(1) The responsible person in relation to each nuclear premises must comply with the standards, procedures and arrangements described in the approved security plan for the premises.

(2) The responsible person is not to be regarded as having failed to comply with any of those standards, procedures or arrangements by reason of any matter if the Secretary of State has notified the responsible person in writing that that matter, or a matter of its description, is in her opinion unlikely to be prejudicial to the security of the premises and the material, equipment and information mentioned in regulation 4(2).

Temporary security plans during building works etc.

8.—(1) If it is proposed to carry out any work of alteration or extension to any building or other structure which is, or forms part of, nuclear premises—

(a) the responsible person in relation to the premises must give notice in writing to the Secretary of State—

(i) specifying the nature of the proposed works, and

(ii) stating whether in his opinion they are likely to involve any derogation from any of the standards, procedures and arrangements described in the approved security plan for the premises, and

(b) the works may not be begun until the Secretary of State has approved a temporary security plan for them.

(2) Paragraph (1) does not apply in the case of any particular work if before the work is begun the Secretary of State has notified the responsible person in writing that that work, or any work of a description that includes that work, is in her opinion unlikely to be prejudicial to the security of the premises and the material and equipment mentioned in regulation 4(2).

(3) To obtain approval of a temporary security plan for any works, the responsible person must submit the plan in writing to the Secretary of State.

(4) The temporary security plan must describe any standards, procedures and arrangements which the responsible person proposes to adopt to ensure the security of the premises and the material and equipment mentioned in regulation 4(2) during the period whilst the works are being carried out.

(5) The Secretary of State may approve the temporary security plan as submitted or with such amendments as she may require.

(6) During the period whilst the works are being carried out, the approved security plan for the premises has effect subject to the approved temporary security plan.

(7) During that period the responsible person must comply with the standards, procedures and arrangements described in the approved temporary security plan.

(8) The responsible person may at any time submit proposals for amending the approved temporary security plan to the Secretary of State, and the Secretary of State may approve the proposals as submitted or with such amendments as she may require.

(9) In the case of premises which are nuclear premises on the commencement date, paragraphs (1) to (8) of this regulation do not apply until there is an approved security plan for the premises.

Requirement for approval of relevant personnel

9. The responsible person in relation to each nuclear premises must ensure that each of his relevant personnel in relation to the premises who—

- (a) is specified in the approved security plan for the premises as requiring investigation and assessment as mentioned in regulation 4(3)(a), or
- (b) falls within a description of persons who are so specified,

is a person who has been approved by the Secretary of State as being of suitable character and integrity, having regard to the need to ensure the security of the premises and the material, equipment and information mentioned in regulation 4(2).

Reports by responsible persons

10.—(1) The responsible person in relation to each nuclear premises must report to the Secretary of State any event or matter of a kind specified in paragraph (5) as soon as practicable and in any event within 24 hours of its becoming known to him.

(2) If it is not reasonably practicable for him to make a written report within that period, he must make the report orally and confirm it in writing within 48 hours of the event or matter becoming known to him.

(3) In any other case the report must be made in writing.

(4) The report must specify the nature of the matter or event and, in the case of an event, the date and time it occurred and the apparent reason for it.

(5) The events and matters are—

- (a) any unauthorised incursion on to the premises or any attempted or suspected such incursion;
- (b) any incident occurring on the premises involving an explosive or incendiary device or suspected such device, or a firearm or replica firearm;
- (c) any damage to any building or equipment on the premises which might affect the security of the premises or any material or equipment mentioned in regulation 4(2);
- (d) any malicious damage to any building or equipment on the premises, other than any trivial damage that does not affect the security of the premises or any material or equipment mentioned in regulation 4(2);

- (e) any theft or attempted theft, or any loss or suspected loss, or any unauthorised movement—
 - (i) of any nuclear material used or stored on the premises or in transit to or from them, or
 - (ii) in the case of premises which are or form part of a nuclear site, of any other radioactive material used or stored on them;
- (f) any theft or attempted theft, or any loss or unauthorised disclosure, of sensitive nuclear information kept on the premises, or any suspected such theft, loss or disclosure;
- (g) any unauthorised access to any sensitive nuclear information kept on the premises, or any attempt to gain such access;
- (h) any threat to do anything which would fall within any of sub-paragraphs (a) to (g);
- (i) any failure to comply with any of the standards, procedures and arrangements described in the approved security plan for the premises or in any approved temporary security plan to which for the time being they are subject;
- (j) any other event or matter which might affect the security of the premises or the material, equipment or information mentioned in regulation 4(2).

Directions to responsible persons

11.—(1) The responsible person in relation to each nuclear premises must comply with any direction given by the Secretary of State for the purpose specified in section 77(1) of the 2001 Act requiring him—

- (a) to adopt or implement, in respect of the whole or any specified part of the premises, standards, procedures or arrangements specified in the direction and to secure that the responsible person’s officers, employees, contractors and consultants comply with them,
 - (b) to submit a fresh security plan or amendments of the approved security plan for the premises to the Secretary of State for approval,
 - (c) to satisfy the Secretary of State about the continuing or future adequacy of the approved security plan for the premises, or that the responsible person is complying with it,
 - (d) to record or investigate in such manner as is specified in the direction—
 - (i) any event or matter of a kind specified in regulation 10(5), or
 - (ii) any such other event or matter as is specified in the direction,or to report, in such manner as is specified in the direction, to the Secretary of State, or such other person as is so specified, any such other event or matter as is so specified, or
 - (e) to take such steps as the Secretary of State considers necessary to remedy or alleviate the consequences of any contravention of these Regulations.
- (2) Such a direction may impose a requirement to be met—
- (a) within a period specified in the direction, or
 - (b) in the case of a direction under paragraph (1)(c), periodically at such intervals as are specified in the direction.

Transitional provisions: security obligations under old legislation

12.—(1) Where, immediately before the commencement date, an operator of nuclear premises which is a generating station or a laboratory was under any obligation under the Nuclear Generating Stations (Security) Regulations 1996(4) (“the 1996 Regulations”) by virtue of any existing approved

(4) [S.I. 1996/665](#).

security plan, the operator must continue to comply with that obligation as if it were an obligation under these Regulations until there is an approved security plan for those premises.

- (2) In this regulation—
- (a) “operator”, “generating station” and “laboratory” have the same meaning as in the 1996 Regulations; and
 - (b) “existing approved security plan” means “approved security plan”, as defined in regulation 2(d) of those Regulations.

PART 3

SECURITY OF TRANSPORT OF NUCLEAR MATERIAL

Requirement for Category I/II nuclear material and Category III nuclear material to be transported by approved carriers

- 13.—(1) No person shall transport any Category I/II nuclear material unless—
- (a) he is a carrier who is for the time being approved by the Secretary of State as a Class A carrier to transport Category I/II nuclear material and Category III nuclear material, or
 - (b) he is doing so as an officer or employee of such a carrier.
- (2) No person shall transport any Category III nuclear material unless—
- (a) he is a carrier who is for the time being approved by the Secretary of State as a Class A carrier to transport Category I/II nuclear material and Category III nuclear material,
 - (b) he is a carrier who is for the time being approved by the Secretary of State as a Class B carrier to transport Category III nuclear material, or
 - (c) he is doing so as an officer or employee of a carrier falling within sub-paragraphs (a) or (b).
- (3) If the responsible person in relation to any nuclear premises arranges for the transport of any Category I/II nuclear material or Category III nuclear material to or from the premises, he must ensure that the transport is undertaken by a carrier who is not prohibited under this regulation from transporting the material in question.

Approval of carriers

- 14.—(1) The Secretary of State may approve a carrier as an approved carrier only if she is satisfied that—
- (a) in the case of an approval as a Class A carrier, the carrier transports or proposes to transport Category I/II nuclear material in the course of his business,
 - (b) in the case of an approval as a Class B carrier, the carrier transports or proposes to transport Category III nuclear material in the course of his business,
 - (c) the carrier has provided the Secretary of State with—
 - (i) his telephone number, facsimile number and principal place of business,
 - (ii) the name, address, telephone number and facsimile number of an individual who will accept any written or oral communication from the Secretary of State under these Regulations on behalf of the carrier, and
 - (d) the carrier has submitted a transport security statement under regulation 16 that the Secretary of State has approved (as submitted or with such amendments as she has required), and he will comply with the standards, procedures and arrangements described in the approved transport security statement while he is approved.

(2) Where a carrier has applied to the Secretary of State for approval as an approved carrier, she must give him notice in writing of her decision and, if she has granted the application, of the date from which he is approved and whether he is approved as a Class A carrier or as a Class B carrier.

(3) If the Secretary of State proposes not to approve a carrier as an approved carrier, she must give him written notice of her proposal and of the reasons for it.

(4) The carrier may make representations to the Secretary of State within 28 days from the date on which the notice under paragraph (3) is given.

(5) The Secretary of State must take into account any such representations before reaching a decision whether to approve the carrier as an approved carrier.

(6) If the Secretary of State decides not to approve a carrier as an approved carrier, she must state the reasons for her decision when she gives him notice of the decision under paragraph (2).

(7) The Secretary of State's approval of a carrier as an approved carrier has effect for the period of five years from the date from which he is approved, unless it is revoked earlier under regulation 15.

Revocation of approval of carriers

15.—(1) The Secretary of State may revoke the approval of an approved carrier if he has requested that his approval be revoked or on any of the following grounds—

(a) that—

(i) in the case of a Class A carrier, he has ceased to carry on a business as a carrier of Category I/II nuclear material, or

(ii) in the case of a Class B carrier, he has ceased to carry on a business as a carrier of Category III nuclear material;

(b) that he has failed to comply with any obligation imposed on him under these Regulations;

(c) that he has supplied false or misleading information in his application for approval as an approved carrier or has failed to supply information that was material to the application; or

(d) that the Secretary of State is of the view that the approval should be revoked in the interests of ensuring the security of the Category I/II nuclear material or Category III nuclear material that the approved carrier might otherwise transport.

(2) If the Secretary of State proposes to revoke the approval of an approved carrier otherwise than pursuant to a request from him, she must give him written notice of her proposal and of the reasons for it.

(3) The approved carrier may make representations to the Secretary of State within 28 days from the date on which the notice under paragraph (2) is given.

(4) The Secretary of State must take into account any such representations before reaching a decision whether to revoke the approved carrier's approval.

(5) If the Secretary of State decides to revoke the approval of an approved carrier, she must give him written notice of her decision and of the reasons for it.

Transport security statements

16.—(1) A carrier applying for approval as a Class A carrier or Class B carrier under regulation 14 must submit with his application a transport security statement for approval by the Secretary of State.

(2) The transport security statement must describe in writing the standards, procedures and arrangements adopted or to be adopted by the carrier to ensure the security of—

(a) in the case of a carrier applying for approval as a Class A carrier, any Category I/II nuclear material or Category III nuclear material transported or to be transported by him,

- (b) in the case of a carrier applying for approval as a Class B carrier, any Category III nuclear material transported or to be transported by him, and
 - (c) in any case, any information which is or comes within his possession or control relating to the security of any nuclear premises or of any Category I/II nuclear material or Category III nuclear material transported or to be transported by him.
- (3) In particular, but without prejudice to the generality of paragraph (2), the statement must describe the standards, procedures and arrangements relating to—
- (a) the investigation and assessment by the Secretary of State of the suitability of relevant personnel of the carrier with a view to ensuring the security of—
 - (i) any Category I/II nuclear material or Category III nuclear material transported or to be transported by the carrier,
 - (ii) any information falling within paragraph (2)(c), and
 - (iii) any nuclear premises to or from which the carrier transports or is to transport any Category I/II nuclear material or Category III nuclear material, and any premises used or to be used for the purpose of the temporary storage of such material during the course of or incidental to its transport,
 - (b) the temporary storage of Category I/II nuclear material or Category III nuclear material during the course of or incidental to its transport, including the security of premises used for such storage, and
 - (c) the steps to be taken by the carrier or any person acting on his behalf if any event of a kind specified in regulation 18(5)(a), (b), (c), (f) or (i) that requires immediate action occurs, and the regular practice of the activities required in connection with those steps.
- (4) The Secretary of State may approve the statement as submitted or with such amendments as she may require.
- (5) An approved carrier may at any time submit to the Secretary of State for approval—
- (a) a fresh transport security statement, or
 - (b) proposals for amending his approved transport security statement.
- (6) The Secretary of State may approve the fresh statement or proposals as submitted or with such amendments as she may require.
- (7) On approving a fresh transport security statement for an approved carrier, the Secretary of State may revoke the approval of the former statement for the approved carrier.

Duties of approved carriers: general

- 17.—(1) An approved carrier must comply with the standards, procedures and arrangements described in his approved transport security statement.
- (2) An approved carrier must notify the Secretary of State of any change to the information referred to in regulation 14(1)(c)—
- (a) in the case of information referred to in regulation 14(1)(c)(i), within 7 days of the change occurring, and
 - (b) in the case of information referred to in regulation 14(1)(c)(ii), no later than the change occurs.
- (3) An approved carrier must ensure that each of his relevant personnel who—
- (a) is specified in his approved transport security statement as requiring investigation and assessment as mentioned in regulation 16(3)(a), or
 - (b) falls within a description of persons who are so specified,

is a person who has been approved by the Secretary of State as being of suitable character and integrity, having regard to the need to ensure the security of the material, information and premises mentioned in regulation 16(3)(a).

Reports by carriers

18.—(1) An approved carrier must report to the Secretary of State any event or matter of a kind specified in paragraph (5) as soon as practicable and in any event within 24 hours of its becoming known to him.

(2) If it is not reasonably practicable for him to make a written report within that period, he must make the report orally and confirm it in writing within 48 hours of the event or matter becoming known to him.

(3) In any other case the report must be made in writing.

(4) The report must specify the nature of the matter or event and, in the case of an event, the date and time it occurred and the apparent reason for it.

(5) The events and matters are—

- (a) any unauthorised incursion on to, interference with, or other incident affecting the security of any means of conveyance of Category I/II nuclear material or Category III nuclear material during the course of its transport or any attempted or suspected such incursion, interference or incident;
- (b) any unauthorised incursion on to premises where Category I/II nuclear material or Category III nuclear material is being stored temporarily during the course of or incidental to its transport or any attempted or suspected such incursion;
- (c) any incident occurring during the transport of Category I/II nuclear material or Category III nuclear material, or on premises where such material is being stored temporarily during the course of or incidental to its transport, involving an explosive or incendiary device or suspected such device, or a firearm or replica firearm;
- (d) any damage to the means of conveyance of Category I/II nuclear material or Category III nuclear material which might affect the security of that material;
- (e) any damage to any building or equipment on premises where Category I/II nuclear material or Category III nuclear material is being stored temporarily during the course of or incidental to its transport which might affect the security of the material;
- (f) any theft or attempted theft, or any loss or suspected loss, or any unauthorised movement of, or any interference with, Category I/II nuclear material or Category III nuclear material during transport;
- (g) any theft or attempted theft, or any loss or unauthorised disclosure, of information falling within regulation 16(2)(c), or any suspected such theft, loss or disclosure;
- (h) any unauthorised access to any such information or any attempt to gain such access;
- (i) any threat to do anything which would fall within any of sub-paragraphs (a) to (h);
- (j) any failure to comply with any of the standards, procedures and arrangements described in the approved carrier's approved transport security statement or the measures described in any approved transport plan required under regulation 19;
- (k) any other event or matter which might affect the security of—
 - (i) Category I/II nuclear material or Category III nuclear material being transported,
 - (ii) premises where Category I/II nuclear material or Category III nuclear material is being stored temporarily during the course of or incidental to its transport, or
 - (iii) any information falling within regulation 16(2)(c).

Duties relating to particular transports of Category I/II nuclear material

19.—(1) No Class A carrier shall transport any Category I/II nuclear material unless a transport plan relating to the particular transport by him has been approved by the Secretary of State.

(2) No less than one month before the proposed date on which the transport of any Category I/II nuclear material is to begin (whether or not the transport is to be undertaken in stages by more than one carrier), each Class A carrier who is to transport the material must submit a transport plan relating to the transport by him for the approval of the Secretary of State.

(3) The transport plan must describe in writing the measures to be adopted to ensure the security of the material during—

- (a) the course of the transport,
- (b) the loading or unloading of the material during the course of or incidental to the transport, and
- (c) any period of temporary storage during the course of or incidental to the transport.

(4) The Secretary of State may approve the transport plan as submitted or with such amendments as she may require.

(5) Before approving such a plan the Secretary of State must—

- (a) consult the responsible person in relation to any nuclear premises to or from which the material is to be transported and any other Class A carrier who is to undertake another stage of the transport of the material, and
- (b) consider any representations made by them.

(6) Each Class A carrier must ensure that any particular transport of Category I/II nuclear material by him conforms to the transport plan approved by the Secretary of State in relation to that transport.

(7) No less than 7 days before the proposed date on which any Class A carrier is to begin transporting any Category I/II nuclear material, he must give notice in writing to the Secretary of State of the dates on which the transport by him is to begin and end.

Duties relating to particular transports of Category III nuclear material

20.—(1) Subject to paragraph (3), no less than 7 days before the proposed date on which any approved carrier is to begin transporting any Category III nuclear material, he must give notice in writing to the Secretary of State of the matters specified in paragraph (2) in relation to the transport by him.

(2) The matters are—

- (a) the dates on which the transport is to begin and end,
- (b) the places from which and to which the material is to be transported,
- (c) the identity of the persons from whom and to whom the material is to be transferred,
- (d) where all or any part of the transport is to take place outside the United Kingdom, the route of the transport,
- (e) any places at which the material is to stop temporarily, and
- (f) where the material is to be transported otherwise than in a closed and locked vehicle, railway compartment or shipping compartment, details of the container to be used to transport the material.

(3) In exceptional circumstances notice under paragraph (1) may be given less than 7 days before the proposed date on which the approved carrier is to begin transporting the material, but a notice that is so given must specify what the exceptional circumstances are.

(4) Where an approved carrier gives notice as mentioned in paragraph (3), he must obtain approval from the Secretary of State for the transport of the material by him before he begins transporting it.

(5) This regulation does not apply to a carrier who transports a vehicle carrying nuclear material on his ship if the driver of the vehicle drives it on and off the ship and remains on the ship during the ship's journey.

Directions to carriers

21.—(1) An approved carrier must comply with any direction given by the Secretary of State for the purpose specified in section 77(1) of the 2001 Act relating to his business as a carrier of Category I/II nuclear material or Category III nuclear material and requiring the approved carrier—

- (a) not to begin a particular proposed transport,
 - (b) to adopt or implement standards, procedures or arrangements specified in the direction and to secure that his officers, employees, contractors and consultants comply with them,
 - (c) to submit a fresh transport security statement or amendments of his approved transport security statement,
 - (d) to satisfy the Secretary of State about the continuing or future adequacy of his approved transport security statement, or that he is complying with it,
 - (e) to record or investigate in such manner as is specified in the direction—
 - (i) any event or matter of a kind specified in regulation 18(5), or
 - (ii) any such other event or matter as is specified in the direction,or to report, in such manner as is specified in the direction, to the Secretary of State, or such other person as is so specified, any such other event or matter as is so specified, or
 - (f) to take such steps as the Secretary of State considers necessary to remedy or alleviate the consequences of any contravention of these Regulations.
- (2) Such a direction may impose a requirement to be met—
- (a) within a period specified in the direction, or
 - (b) in the case of a direction under paragraph (1)(d), periodically at such intervals as are specified in the direction.

PART 4

SECURITY OF SENSITIVE NUCLEAR INFORMATION

Duties of persons with sensitive nuclear information

- 22.**—(1) Subject to paragraph (2), this regulation applies to the following persons—
- (a) a responsible person who keeps sensitive nuclear information on any premises other than nuclear premises for which there is an approved security plan;
 - (b) any company designated by the Secretary of State under section 19(2) of the Atomic Energy Authority Act 1971(5);
 - (c) any person who has possession or control of sensitive nuclear information for the purposes of planning, designing or constructing any proposed nuclear premises or any installation or other facility on nuclear premises;

- (d) any contractor or consultant of any person referred to in sub-paragraphs (a) to (c) who has possession or control of sensitive nuclear information; and
 - (e) any holding company (as defined in section 736(1) of the Companies Act 1985⁽⁶⁾) whose subsidiary (as defined in that section) falls within any of sub-paragraphs (a) to (c) and which itself has possession or control of sensitive nuclear information.
- (2) This regulation does not apply to any person who is not (and is not expected to be) involved in activities on or in relation to any nuclear premises.
- (3) A person to whom this regulation applies must—
- (a) maintain such security standards, procedures and arrangements as are necessary for the purpose of minimising the risk of loss, theft or unauthorised disclosure of, or unauthorised access to, any sensitive nuclear information within his possession or control,
 - (b) comply with any direction given by the Secretary of State requiring him to take such steps as are necessary or as are specified in the direction for that purpose,
 - (c) ensure that each of his relevant personnel who—
 - (i) is specified in such a direction as a person whose suitability requires investigation and assessment by the Secretary of State, or
 - (ii) falls within a description of persons who are so specified,is a person who has been approved by the Secretary of State as being of suitable character and integrity, having regard to the need to ensure the security of any sensitive nuclear information within the possession or control of the person to whom this regulation applies, and
 - (d) report to the Secretary of State any event or matter of a kind specified in paragraph (6) that relates to any sensitive nuclear information within his possession or control as soon as practicable and in any event within 24 hours of its becoming known to him, specifying the nature of the event or matter and, in the case of an event, the date and time it occurred and the apparent reason for it.
- (4) If it is not reasonably practicable for the person in question to make a written report under paragraph (3)(d) within the period specified in that paragraph, he must make the report orally and confirm it in writing within 48 hours of the event or matter becoming known to him.
- (5) In any other case the report must be made in writing.
- (6) The events and matters are—
- (a) any theft or attempted theft, or any loss or unauthorised disclosure, of sensitive nuclear information, or any suspected such theft, loss or disclosure;
 - (b) any unauthorised access to sensitive nuclear information or any attempt to gain such access;
 - (c) any other event or matter which might affect the security of any sensitive nuclear information.

(6) 1985 c. 6; section 736 is substituted by the Companies Act 1989 (c. 40), section 144(1).

PART 5

GENERAL AND SUPPLEMENTARY PROVISIONS

Application of provisions of the 1974 Act

23.—(1) The following provisions of the 1974 Act⁽⁷⁾ apply for the purposes of these Regulations as they apply for the purposes of that Act, but with the modifications specified in paragraphs (3) to (6).

(2) Those provisions are—

- (a) section 19 (appointment of inspectors);
- (b) section 20 (powers of inspectors);
- (c) section 26 (power of enforcing authorities to indemnify their inspectors);
- (d) section 27(1) (obtaining of information);
- (e) section 28⁽⁸⁾ (restrictions on disclosure of information);
- (f) section 33(1)(e), (f), (h), (i), (j), (k), (l), (m), (n) and (o) ⁽⁹⁾ (offences);
- (g) section 35 (venue);
- (h) section 36 (offences due to fault of other person);
- (i) section 37 (offences by bodies corporate);
- (j) section 38 (restriction on institution of proceedings in England and Wales);
- (k) section 42 (power of court to order cause of offence to be remedied or, in certain cases, forfeiture);
- (l) section 46 (service of notices).

(3) In those sections—

- (a) references to an enforcing authority are to be taken as references to the Secretary of State with responsibility for Trade and Industry, and
- (b) references to the relevant statutory provisions are to be taken as references to section 77 of the 2001 Act (regulation of security of civil nuclear industry), these Regulations and any provisions of the 1974 Act which apply for the purposes of these Regulations.

(4) In section 20 (powers of inspectors)—

- (a) in subsection (2)(a) for the words “which in his opinion is or may be dangerous” there are substituted the words “where in his opinion delay would be prejudicial to ensuring effective security”,
- (b) in subsection (2)(h) for the words from “being an article” to “safety” there are substituted the words “where it appears to him to be desirable to do so in the interests of ensuring effective security”, and
- (c) in subsection (4) for the words “the safety of the State” there are substituted the words “national security”.

⁽⁷⁾ Most of these provisions are modified by [S.I. 1992/3073](#), regulation 28 and Schedule 6, paragraph 1.

⁽⁸⁾ Section 28 is amended by the Local Government Act 1985 (c. 51), section 84 and Schedule 14, paragraph 52; the Consumer Protection Act 1987 (c. 43), section 36 and Schedule 3; the Education Reform Act 1988 (c. 40), section 237 and Schedule 13; the Water Act 1989 (c. 15), section 190 and Schedule 25, paragraph 46; the Environment Act 1995 (c. 25), sections 78 and 120, Schedule 10, paragraph 12, Schedule 22, paragraph 30 and Schedule 24; and the Greater London Authority Act 1999 (c. 29), section 328 and Schedule 29, paragraph 23.

⁽⁹⁾ Section 33(1) is amended by the Employment Protection Act 1975 (c. 71), section 116 and Schedule 15, paragraph 9, and the Consumer Protection Act 1987 (c. 43), section 36 and Schedule 3, and in part repealed by the Forgery and Counterfeiting Act 1981 (c. 45), section 30 and Schedule.

- (5) In section 27(1) (obtaining of information)—
- (a) in paragraph (a) for the words “the Commission may, with the consent of the Secretary of State,” there are substituted the words “the Secretary of State may”,
 - (b) in that paragraph, the words “to the Commission or, as the case may be,” are omitted, and
 - (c) the second sentence is omitted.
- (6) In section 38 (restriction on institution of proceedings in England and Wales) for the words from “an inspector” to the end there are substituted the words “the Secretary of State”.

Application of provisions of the 1978 Order

24.—(1) The following provisions of the 1978 Order⁽¹⁰⁾ apply for the purposes of these Regulations as they apply for the purposes of that Order, but with the modifications specified in paragraphs (3) to (6).

- (2) Those provisions are—
- (a) Article 21 (appointment of inspectors);
 - (b) Article 22 (powers of inspectors);
 - (c) Article 28 (power of enforcing authorities to indemnify their inspectors);
 - (d) Article 29(1) (obtaining of information);
 - (e) Article 30⁽¹¹⁾ (restrictions on disclosure of information);
 - (f) Article 31(1)(e), (f), (h), (i), (j), (k), (l), (m), (n) and (o) ⁽¹²⁾ (offences);
 - (g) Article 33 (venue);
 - (h) Article 34 (offences due to fault of other person);
 - (i) Article 34A (offences by bodies corporate);
 - (j) Article 35 (restriction on institution of proceedings); and
 - (k) Article 39 (power of court to order cause of offence to be remedied and, in certain cases, forfeiture).
- (3) In those Articles—
- (a) references to “the enforcing authority” are to be taken as references to the Secretary of State with responsibility for Trade and Industry, and
 - (b) references to “the relevant statutory provisions” are to be taken as references to section 77 of the 2001 Act (regulation of security of civil nuclear industry), these Regulations and any provisions of the 1978 Order which apply for the purposes of these Regulations.
- (4) In Article 22 (powers of inspectors)—
- (a) in paragraph (2)(a) for the words “which in his opinion is or may be dangerous” there are substituted the words “where in his opinion delay would be prejudicial to ensuring effective security”,
 - (b) in paragraph (2)(h) for the words from “being an article” to “safety” there are substituted the words “where it appears to him to be desirable to do so in the interests of ensuring effective security”,

⁽¹⁰⁾ Most of these provisions are modified by [S.I. 1992/3073](#), regulation 28 and Schedule 6, paragraph 2.

⁽¹¹⁾ Article 30 is amended by [S.I. 1987/2049 \(N.I. 20\)](#), Article 28 and Schedule 2, and [S.I. 1998/2795 \(N.I. 18\)](#), Schedule 1, paragraph 8.

⁽¹²⁾ Article 31 is amended by [S.I. 1987/2049 \(N.I. 20\)](#), Article 28 and Schedule 2; [S.I. 1992/1728 \(N.I. 17\)](#), Article 6; and [S.I. 1996/1883 \(N.I. 15\)](#), Articles 9 and 13(3) and Schedule 5; and in part repealed by the Forgery and Counterfeiting Act 1981 (c. 45), section 30 and Schedule Part III; [S.I. 1988/595 \(N.I. 3\)](#) Article 10(1); [S.I. 1992/1728 \(N.I. 17\)](#), Articles 6, 8 and Schedule 2; and [S.I. 1998/2795 \(N.I. 18\)](#), Schedule 1, paragraph 15 and Schedule 2.

- (c) in paragraph (3) for the words “the Department concerned” there are substituted the words “the Secretary of State”, and
 - (d) in paragraph (4) for the words “the safety of the State” there are substituted the words “national security”.
- (5) In Article 29(1) (obtaining of information)—
- (a) for the words “the Department concerned or the Executive” there are substituted the words “the enforcing authority”, and
 - (b) the words “to the Executive or, as the case may be,” are omitted.
- (6) In Article 35 (restriction on institution of proceedings) for the words from “an inspector” to the end there are substituted the words “the Secretary of State”.

Offences

25.—(1) If any person fails to comply with any provision of regulation 5, 7, 8, 9, 10, 11, 12, 13, 17, 18, 19, 20, 21, or 22, he shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1), under section 33 of the 1974 Act as it applies by virtue of regulation 23 or under Article 31 of the 1978 Order as it applies by virtue of regulation 24 is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both), and
- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

(3) Proceedings for an offence to which paragraph (2) applies that is committed outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the United Kingdom.

Exclusion of defence premises and transports

26. These Regulations do not apply—

- (a) to any nuclear premises controlled or operated wholly or mainly for the purposes of the department of the Secretary of State with responsibility for defence, or
- (b) to any transport of nuclear material for the purposes of the department of the Secretary of State with responsibility for defence.

Transport by ship

27.—(1) These Regulations apply to transport in a United Kingdom ship whether or not that ship is in the territorial sea of the United Kingdom.

(2) These Regulations do not apply to transport in a ship that is not a United Kingdom ship, except that (subject to paragraphs (3) to (12)) Part 1 of these Regulations, regulations 18 to 21 and this Part apply to transport within the United Kingdom or its territorial sea in such a ship if the ship—

- (a) is proceeding to a port in the United Kingdom in order to enter it, or entering, leaving or proceeding from such a port, and is carrying nuclear material, or
- (b) is proceeding to such a port in order for nuclear material to be loaded on to it there.

(3) Part 1 of these Regulations, regulations 18 to 21 and this Part do not apply to transport in a ship that is not a United Kingdom ship and is owned by the Government of a country outside the United Kingdom or a department or agency of such a Government except at a time when such a ship is being used for commercial purposes.

- (4) In relation to transport in a ship that is not a United Kingdom ship—
- (a) any obligation imposed by virtue of these Regulations (including any obligation arising under the 1974 Act as it applies by virtue of regulation 23 or under the 1978 Order as it applies by virtue of regulation 24) is to be regarded as an obligation that must be met in respect of the ship in question as a condition of its entry into the port in question (but without prejudice to the continuation of that obligation, in so far as it is capable of remaining operative, after it leaves the port), and
 - (b) any offence to which regulation 25(2) applies is to be regarded as an offence constituted by a breach of such a condition in respect of the ship in question.
- (5) In relation to transport in a ship that is not a United Kingdom ship, regulations 18 to 21 and 23 to 25 have effect with the following modifications.
- (6) Regulation 18 applies—
- (a) with the substitution in paragraph (1) for the words “An approved carrier” of the words “A carrier”, and
 - (b) with the omission in paragraph (5)(j) of the words from “the standards” to “or”.
- (7) Regulation 19 applies—
- (a) with the substitution in paragraphs (1), (2), (6) and (7) for the words “Class A carrier” of the word “carrier”, and
 - (b) with the omission in paragraph (5)(a) of the word “other”.
- (8) Regulation 20 applies—
- (a) with the substitution in paragraphs (1) and (3) for the words “approved carrier” of the word “carrier”, and
 - (b) with the substitution in paragraph (4) for the words “an approved carrier” of the words “a carrier”.
- (9) Regulation 21(1) applies—
- (a) with the substitution for the words “An approved carrier” and “the approved carrier” of the words “A carrier” and “the carrier” respectively, and
 - (b) with the omission of sub-paragraphs (c) and (d).
- (10) Regulation 23 applies with the insertion after paragraph (5) of the following paragraph—
- “(5A) At the beginning of section 33(1) (offences) there are inserted the words ‘Without prejudice to regulation 25(1) of the Nuclear Industries Security Regulations 2003, in any case where this section applies by virtue of regulation 27(2) of those Regulations and the ship enters or has entered the port in question or an attempt is or has been made for it to do so.’”.
- (11) Regulation 24 applies with the insertion after paragraph (5) of the following paragraph—
- “(5A) At the beginning of Article 31(1) (offences) there are inserted the words ‘Without prejudice to regulation 25(1) of the Nuclear Industries Security Regulations 2003, in any case where this Article applies by virtue of regulation 27(2) of those Regulations and the ship enters or has entered the port in question or an attempt is or has been made for it to do so.’”.
- (12) Regulation 25 applies with the substitution for paragraph (1) of the following paragraph—
- “(1) If—
- (a) any person fails to comply with an obligation that, by virtue of regulation 27(4), is to be met in respect of a ship as a condition of its entry into a port in the United Kingdom, and

(b) the ship enters or has entered the port or an attempt is or has been made for it to do so,

he shall be guilty of an offence.”.

(13) Notwithstanding anything in this regulation, nothing in these Regulations applies to acts done outside the United Kingdom by a person other than a United Kingdom person.

Application to hovercraft

28.—(1) Subject to paragraph (3), these Regulations apply as if any reference to a ship (other than in the expression “United Kingdom ship”) included a reference to a hovercraft.

(2) These Regulations apply to transport in a United Kingdom hovercraft if and only if the transport is—

- (a) within the United Kingdom or its territorial sea, or
- (b) to or from any nuclear premises in the United Kingdom.

(3) Paragraphs (2) to (13) of regulation 27 apply as if—

- (a) the references in paragraphs (2) to (5) of that regulation to a United Kingdom ship included references to a United Kingdom hovercraft,
- (b) the references to a ship in the words inserted in section 33(1) of the 1974 Act by paragraph (10) of that regulation and in Article 31(1) of the 1978 Order by paragraph (11) of that regulation included references to a hovercraft, and
- (c) the reference in paragraph (13) of that regulation to that regulation included references to paragraph (2) of this regulation.

(4) In this regulation—

“hovercraft” has the meaning given in section 4(1) of the Hovercraft Act 1968⁽¹³⁾, and

“United Kingdom hovercraft” means a hovercraft registered under the Hovercraft (General) Order 1972⁽¹⁴⁾.

26th February 2003

Brian Wilson,
Minister of State for Energy and Construction,
Department of Trade and Industry

⁽¹³⁾ 1968 c. 59.

⁽¹⁴⁾ S.I. 1972/674.